

AMENDED IN ASSEMBLY MARCH 27, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

No. 776

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**Introduced by Assembly Members Aghazarian and Lieu**

February 22, 2007

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~~An act to amend Sections 25299.54 and 25299.57 of the Health and Safety Code, relating to underground storage tanks. An act to add Section 25503.38 to the Business and Professions Code, relating to alcoholic beverages.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 776, as amended, Aghazarian. ~~Petroleum: underground storage tanks: claims.~~ *Alcoholic beverages: advertising.*

*Existing law generally restricts certain alcoholic beverage licensees, including manufacturers and winegrowers, from paying, crediting, or compensating a retailer for advertising in connection with the advertising and sale of alcoholic beverages.*

*This bill would expressly authorize a beer manufacturer, beer and wine wholesaler, distilled spirits rectifier, distilled spirits manufacturer, distilled spirits manufacturer's agent, or a holder of a winegrower's license to sponsor or purchase advertising space and time from, or on behalf of, an off-sale retail licensee that is an owner or coowner of a professional sports team that is a tenant of, and plays its home games in, a specified arena, under specified conditions. This bill would also make a beer manufacturer, distilled spirits rectifier, distilled spirits manufacturer, distilled spirits manufacturer's agent, or a holder of a winegrower's license who, through coercion or other means, includes the holder of a wholesaler's license to fulfill those contractual obligations guilty of a misdemeanor. This bill would additionally make*

*an off-sale retail licensee, as described, who solicits or coerces a holder of a wholesaler's license to solicit a beer manufacturer, distilled spirits rectifier, distilled spirits manufacturer, distilled spirits manufacturer's agent, or a holder of a winegrower's license to sponsor or purchase advertising time or space is guilty of a misdemeanor. The bill thus imposes a state-mandated local program by creating new crimes.*

*This bill also makes findings and declarations regarding the need for special legislation.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~The Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989 requires owners and operators of petroleum underground storage tanks to pay a storage fee for each gallon of petroleum placed in the tank and the fees are required to be deposited in the Underground Storage Tank Cleanup Fund. The State Water Resources Control Board is authorized to expend money from that fund to pay claims to aid eligible owners and operators of petroleum underground storage tanks who take corrective action to clean up unauthorized releases from those tanks. A claimant for corrective action costs is required to be in compliance with specified insurance and permit requirements, but the board is authorized to waive those requirements if the board makes certain findings regarding the claimant's compliance with permit requirements.~~

~~This bill would revise the eligibility requirements for an applicant to the fund by deleting the condition that the applicant be in compliance with those permit and insurance requirements. The bill would also repeal the authority of the board to waive those requirements and instead would require an applicant to be in compliance with those requirements before the date when the applicant submits an application for a claim. The changes made by this bill would apply retroactively to an application for a claim to the fund that was pending before, or on appeal from, the board on and after January 1, 2007.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 25503.38 is added to the Business and*  
2     *Professions Code, to read:*

3     25503.38. (a) *Notwithstanding any other provision of this*  
4     *chapter, a beer manufacturer, beer and wine wholesaler, distilled*  
5     *spirits rectifier, distilled spirits manufacturer, distilled spirits*  
6     *manufacturer's agent, or a holder of a winegrower's license may*  
7     *sponsor or purchase advertising space and time from, or on behalf*  
8     *of, an off-sale retail licensee subject to all of the following*  
9     *conditions:*

10    (1) *The off-sale retail licensee is an owner or coowner of a*  
11    *professional sports team.*

12    (2) *The professional sports team owned or coowned by the*  
13    *off-sale retail licensee is a tenant of, and plays its home games in,*  
14    *an arena with a fixed seating capacity in excess of 10,000 seats*  
15    *located in San Joaquin County.*

16    (3) *The advertising space or time is sponsored or purchased*  
17    *only in connection with the professional sports team's events held*  
18    *on the premises of the arena.*

19    (b) *Any sponsorship or purchase of advertising space or time*  
20    *conducted pursuant to subdivision (a) shall be conducted pursuant*  
21    *to a written contract entered into by the beer manufacturer, beer*  
22    *and wine wholesaler, distilled spirits rectifier, distilled spirits*  
23    *manufacturer, distilled spirits manufacturer's agent, or a holder*  
24    *of the winegrower's license and the off-sale retail licensee and all*  
25    *other coowners, where applicable.*

26    (c) *Any beer manufacturer, distilled spirits rectifier, distilled*  
27    *spirits manufacturer, distilled spirits manufacturer's agent, or a*  
28    *holder of the winegrower's license who, through coercion or other*  
29    *illegal means, induces, directly or indirectly, a holder of a*  
30    *wholesaler's license to fulfill those contractual obligations entered*  
31    *into pursuant to subdivision (a) or (b) shall be guilty of a*  
32    *misdemeanor and shall be punished by imprisonment in the county*  
33    *jail not exceeding six months, or by a fine in an amount equal to*  
34    *the entire value of the advertising space or time involved in the*  
35    *contract, whichever is greater, plus ten thousand dollars (\$10,000),*  
36    *or by both imprisonment and fine. The person shall also be subject*  
37    *to license revocation pursuant to Section 24200.*

1     (d) Any off-sale retail licensee described in subdivision (a) who,  
2     directly or indirectly, solicits or coerces a holder of a wholesaler's  
3     license to solicit a beer manufacturer, distilled spirits  
4     manufacturer, distilled spirits manufacturer's agent, or a holder  
5     of the winegrower's license to sponsor or purchase advertising  
6     time or space pursuant to subdivision (a) or (b) shall be guilty of  
7     a misdemeanor and shall be punished by imprisonment in the  
8     county jail not exceeding six months, or by a fine in an amount  
9     equal to the entire value of the advertising space or time involved  
10    in the contract, whichever is greater, plus ten thousand dollars  
11    (\$10,000), or by both imprisonment and fine. The person shall  
12    also be subject to license revocation pursuant to Section 24200.

13    (e) Nothing in this section shall authorize the purchasing of  
14    advertising space or time from, or on behalf of, any on-sale  
15    licensee that is the owner, manager, agent of the owner, assignee  
16    of the owner's advertising rights, or a tenant of the arena described  
17    in paragraph (2) of subdivision (a).

18    (f) Nothing in this section shall authorize a beer manufacturer,  
19    distilled spirits manufacturer, distilled spirits manufacturer's  
20    agent, or a holder of the winegrower's license to furnish, give, or  
21    lend anything of value to an off-sale retail licensee described in  
22    subdivision (a) except as expressly authorized by this section or  
23    any other provision of this division.

24    (g) For purposes of this section, "beer manufacturer" includes  
25    a holder of a beer manufacturer's license, a holder of an  
26    out-of-state beer manufacturer's certificate, or a holder of a beer  
27    and wine importer's general license.

28    (h) The Legislature finds and declares that is necessary and  
29    proper to require a separation between manufacturing interests,  
30    wholesale interests, and retail interests in the production and  
31    distribution of alcoholic beverages in order to prevent suppliers  
32    from dominating local markets through vertical integration and  
33    to prevent excessive sales of alcoholic beverages produced by  
34    overly aggressive sales techniques. The Legislature further finds  
35    and declares that the exceptions established by this section to the  
36    general prohibition against tied-house interests must be limited  
37    to their express terms so as not to undermine the general  
38    prohibition, and intends that this section be construed accordingly.

39    SEC. 2. Due to the unique circumstances concerning the County  
40    of San Joaquin, the Legislature finds and declares that a general

1 *statute cannot be made applicable within the meaning of Section*  
2 *16 of Article IV of the California Constitution. Therefore, this act*  
3 *is necessarily applicable only to the County of San Joaquin.*

4 *SEC. 3. No reimbursement is required by this act pursuant to*  
5 *Section 6 of Article XIII B of the California Constitution because*  
6 *the only costs that may be incurred by a local agency or school*  
7 *district will be incurred because this act creates a new crime or*  
8 *infraction, eliminates a crime or infraction, or changes the penalty*  
9 *for a crime or infraction, within the meaning of Section 17556 of*  
10 *the Government Code, or changes the definition of a crime within*  
11 *the meaning of Section 6 of Article XIII B of the California*  
12 *Constitution.*

13 ~~SECTION 1. The Legislature finds and declares all of the~~  
14 ~~following:~~

15 ~~(a) The primary purpose of the Underground Storage Tank~~  
16 ~~Cleanup Fund is to provide funds for the cleanup of releases of~~  
17 ~~petroleum from current and former underground tanks.~~

18 ~~(b) While applicants for funding from the Underground Storage~~  
19 ~~Tank Cleanup Fund are expected to have achieved current~~  
20 ~~compliance with all applicable laws regarding underground tanks~~  
21 ~~prior to submitting a completed claim, it is not the intent of the~~  
22 ~~Legislature that access to the fund should be denied based on past~~  
23 ~~noncompliance. Adequate remedies already exist in other parts of~~  
24 ~~the Health and Safety Code and the Revenue and Taxation Code~~  
25 ~~to address past noncompliance.~~

26 ~~(c) The purpose of this act is to clarify the Legislature's intent~~  
27 ~~with regard to the eligibility requirements for applying for those~~  
28 ~~funds.~~

29 ~~SEC. 2. Section 25299.54 of the Health and Safety Code is~~  
30 ~~amended to read:~~

31 ~~25299.54. (a) Except as provided in subdivisions (b), (c), (d),~~  
32 ~~(g), and (h), an owner or operator, required to perform corrective~~  
33 ~~action pursuant to Section 25296.10, or an owner or operator who,~~  
34 ~~as of January 1, 1988, is required to perform corrective action,~~  
35 ~~who has initiated this action in accordance with Division 7~~  
36 ~~(commencing with Section 13000) of the Water Code, who is~~  
37 ~~undertaking corrective action in compliance with waste discharge~~  
38 ~~requirements or other orders issued pursuant to Division 7~~  
39 ~~(commencing with Section 13000) of the Water Code, or Chapter~~

1 6.7 (commencing with Section 25280), may apply to the board for  
2 satisfaction of a claim filed pursuant to this article.

3 (b) A person who is subject to Article 3 (commencing with  
4 Section 25299.30) and who has not achieved compliance with that  
5 article before the date of the claim application is ineligible to file  
6 a claim pursuant to this section.

7 (c) Any owner or operator of an underground storage tank  
8 containing petroleum is ineligible to file a claim pursuant to this  
9 section if the person meets both of the following conditions:

10 (1) The person knew, before January 1, 1988, of the  
11 unauthorized release of petroleum which is the subject of the claim.

12 (2) The person did not initiate, on or before June 30, 1988, any  
13 corrective action in accordance with Division 7 (commencing with  
14 Section 13000) of the Water Code concerning the release, or the  
15 person did not, on or before June 30, 1988, initiate corrective action  
16 in accordance with Chapter 6.7 (commencing with Section 25280)  
17 or the person did not initiate action on or before June 30, 1988, to  
18 come into compliance with waste discharge requirements or other  
19 orders issued pursuant to Division 7 (commencing with Section  
20 13000) of the Water Code concerning the release.

21 (d) An owner or operator who violates Section 25296.10 or any  
22 corrective action order, directive, notification, or approval order  
23 issued pursuant to this chapter, Chapter 6.7 (commencing with  
24 Section 25280), or Division 7 (commencing with Section 13000)  
25 of the Water Code, is liable for any corrective action costs that  
26 result from the owner's or operator's violation and is ineligible to  
27 file a claim for those additional corrective action costs pursuant  
28 to this section.

29 (e) Notwithstanding this chapter, a person who owns a tank  
30 located underground that is used to store petroleum may apply to  
31 the board for satisfaction of a claim, and the board may pay the  
32 claim pursuant to Section 25299.57 without making the findings  
33 specified in paragraph (3) of subdivision (d) of Section 25299.57  
34 if all of the following apply:

35 (1) The tank meets one of the following requirements:

36 (A) The tank is located at the residence of a person on property  
37 used exclusively for residential purposes at the time of discovery  
38 of the unauthorized release of petroleum.

39 (B) The tank owner demonstrates that the tank is located on  
40 property that, on and after January 1, 1985, is not used for

1 ~~agricultural purposes, the tank is of a type specified in~~  
2 ~~subparagraph (B) of paragraph (1) of subdivision (y) of Section~~  
3 ~~25281, and the petroleum in the tank is used solely for the purposes~~  
4 ~~specified in subparagraph (B) of paragraph (1) of subdivision (y)~~  
5 ~~of Section 25281 on and after January 1, 1985.~~

6 ~~(2) The tank is not a tank described in subparagraph (A) of~~  
7 ~~paragraph (1) of subdivision (y) of Section 25281 and the tank is~~  
8 ~~not used on or after January 1, 1985, for the purposes specified in~~  
9 ~~that subparagraph.~~

10 ~~(3) Prior to the date of the claim application, the claimant is in~~  
11 ~~compliance with Section 25299.31 and the permit requirements~~  
12 ~~of Chapter 6.7 (commencing with Section 25280), or the claimant~~  
13 ~~is not subject to the requirements of those provisions.~~

14 ~~(f) Whenever the board has authorized the prepayment of a~~  
15 ~~claim pursuant to Section 25299.57, and the amount of money~~  
16 ~~available in the fund is insufficient to pay the claim, the owner or~~  
17 ~~operator shall remain obligated to undertake the corrective action~~  
18 ~~in accordance with Section 25296.10.~~

19 ~~(g) The board shall not reimburse a claimant for any eligible~~  
20 ~~costs for which the claimant has been, or will be, compensated by~~  
21 ~~another person. This subdivision does not affect reimbursement~~  
22 ~~of a claimant from the fund under either of the following~~  
23 ~~circumstances:~~

24 ~~(1) The claimant has a written contract, other than an insurance~~  
25 ~~contract, with another person that requires the claimant to~~  
26 ~~reimburse the person for payments the person has provided the~~  
27 ~~claimant pending receipt of reimbursement from the fund.~~

28 ~~(2) An insurer has made payments on behalf of the claimant~~  
29 ~~pursuant to an insurance contract and either of the following apply:~~

30 ~~(A) The insurance contract explicitly coordinates insurance~~  
31 ~~benefits with the fund and requires the claimant to do both of the~~  
32 ~~following:~~

33 ~~(i) Maintain the claimant's eligibility for reimbursement of costs~~  
34 ~~pursuant to this chapter by complying with all applicable eligibility~~  
35 ~~requirements.~~

36 ~~(ii) Reimburse the insurer for costs paid by the insurer pending~~  
37 ~~reimbursement of those costs by the fund.~~

38 ~~(B) The claimant received a letter of commitment prior to June~~  
39 ~~30, 1999, for the occurrence and the claimant is required to~~

1 reimburse the insurer for any costs paid by the insurer pending  
2 reimbursement of those costs by the fund.

3 (h) (1) Except as provided in paragraph (2), a person who  
4 purchases or otherwise acquires real property on which an  
5 underground storage tank or tank specified in subdivision (e) is  
6 situated shall not be reimbursed by the board for a cost attributable  
7 to an occurrence that commenced prior to the acquisition of the  
8 real property if both of the following conditions apply:

9 (A) The purchaser or acquirer knew, or in the exercise of  
10 reasonable diligence would have discovered, that an underground  
11 storage tank or tank specified in subdivision (e) was located on  
12 the real property being acquired.

13 (B) Any person who owned the site or owned or operated an  
14 underground storage tank or tank specified in subdivision (e) at  
15 the site during or after the occurrence and prior to acquisition by  
16 the purchaser or acquirer would not have been eligible for  
17 reimbursement from the fund.

18 (2) Notwithstanding paragraph (1), if the claim is filed on or  
19 after January 1, 2003, the board may reimburse the eligible costs  
20 claimed by a person who purchases or otherwise acquires real  
21 property on which an underground storage tank or tank specified  
22 in subdivision (e) is situated, if all of the following conditions  
23 apply:

24 (A) The claimant is the owner or operator of the tank that had  
25 an occurrence that commenced prior to the owner's acquisition of  
26 the real property.

27 (B) The claimant satisfies all eligibility requirements, other than  
28 those specified in paragraph (1).

29 (C) The claimant is not an affiliate of any person whose act or  
30 omission caused or would cause ineligibility for the fund.

31 (3) If the board reimburses a claim pursuant to paragraph (2);  
32 any person specified in subparagraph (B) of paragraph (1), other  
33 than a person who is ineligible for reimbursement from the fund  
34 solely because the property was acquired from another person who  
35 was ineligible for reimbursement from the fund, shall be liable for  
36 the amount paid from the fund. The Attorney General, upon request  
37 of the board, shall bring a civil action to recover the liability  
38 imposed under this paragraph. All money recovered by the  
39 Attorney General under this paragraph shall be deposited in the  
40 fund.



1     ~~(4) The liability established pursuant to paragraph (3) does not~~  
2     ~~limit or supersede liability under any other provision of state or~~  
3     ~~federal law, including common law.~~

4     ~~(5) For purposes of this subdivision, the following definitions~~  
5     ~~shall apply:~~

6     ~~(A) “Affiliate” means a person who has one or more of the~~  
7     ~~following relationships with another person:~~

8         ~~(i) Familial relationship.~~

9         ~~(ii) Fiduciary relationship.~~

10       ~~(iii) A relationship of direct or indirect control or shared~~  
11       ~~interests.~~

12     ~~(B) Affiliates include, but are not limited to, any of the~~  
13     ~~following:~~

14         ~~(i) Parent corporation and subsidiary.~~

15         ~~(ii) Subsidiaries that are owned by the same parent corporation.~~

16         ~~(iii) Business entities involved in a reorganization, as defined~~  
17         ~~in Section 181 of the Corporations Code.~~

18         ~~(iv) Corporate officer and corporation.~~

19         ~~(v) Shareholder that owns a controlling block of voting stock~~  
20         ~~and the corporation.~~

21         ~~(vi) Partner and the partnership.~~

22         ~~(vii) Member and a limited liability company.~~

23         ~~(viii) Franchiser and franchisee.~~

24         ~~(ix) Settlor, trustee, and beneficiary of a trust.~~

25         ~~(x) Debtor and bankruptcy trustee or debtor-in-possession.~~

26         ~~(xi) Principal and agent.~~

27     ~~(C) “Familial relationship” means relationships between family~~  
28     ~~members, including, and limited to, a husband, wife, child,~~  
29     ~~stepchild, parent, grandparent, grandchild, brother, sister,~~  
30     ~~stepbrother, stepsister, stepmother, stepfather, mother-in-law,~~  
31     ~~father-in-law, brother-in-law, sister-in-law, daughter-in-law,~~  
32     ~~son-in-law, and, if related by blood, uncle, aunt, niece, or nephew.~~

33     ~~(i) The Legislature finds and declares that the changes made to~~  
34     ~~subparagraph (A) of paragraph (1) of subdivision (c) by Chapter~~  
35     ~~1290 of the Statutes of 1992 is declaratory of existing law.~~

36     ~~(j) The Legislature finds and declares that the amendment of~~  
37     ~~subdivisions (a) and (g) by Chapter 328 of the Statutes of 1999 is~~  
38     ~~declaratory of existing law.~~

39     ~~SEC. 3. Section 25299.57 of the Health and Safety Code is~~  
40     ~~amended to read:~~

~~25299.57. (a) If the board makes the determination specified in subdivision (d), the board may only pay for the costs of a corrective action that exceeds the level of financial responsibility required to be obtained pursuant to Section 25299.32, but not more than one million five hundred thousand dollars (\$1,500,000) for each occurrence. In the case of an owner or operator who, as of January 1, 1988, was required to perform corrective action, who initiated that corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), and who is undertaking the corrective action in compliance with waste discharge requirements or other orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), the owner or operator may apply to the board for satisfaction of a claim filed pursuant to this article. The board shall notify claimants applying for satisfaction of claims from the fund of eligibility for reimbursement in a prompt and timely manner and that a letter of credit or commitment that will obligate funds for reimbursement shall follow the notice of eligibility as soon thereafter as possible.~~

~~(b) (1) For claims eligible for reimbursement pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the actual cost of corrective action to the board, which shall either approve or disapprove the costs incurred as reasonable and necessary. At least 15 days before the board proposes to disapprove the reimbursement of corrective action costs that have been incurred on the grounds that the costs were unreasonable or unnecessary, the board shall issue a notice advising the claimant and the lead agency of the proposed disallowance, to allow review and comment.~~

~~(2) The board shall not reject any actual costs of corrective action in a claim solely on the basis that the invoices submitted fail to sufficiently detail the actual costs incurred, if all of the following apply:~~

~~(A) Auxiliary documentation is provided that documents to the board's satisfaction that the invoice is for necessary corrective action work.~~

~~(B) The costs of corrective action work in the claim are reasonably commensurate with similar corrective action work~~

1 performed during the same time period covered by the invoice for  
2 which reimbursement is sought.

3 ~~(C) The invoices include a brief description of the work~~  
4 ~~performed, the date that the work was performed, the vendor, and~~  
5 ~~the amount.~~

6 ~~(e) (1) For claims eligible for prepayment pursuant to~~  
7 ~~subdivision (e) of Section 25299.55, the claimant shall submit the~~  
8 ~~estimated cost of the corrective action to the board, which shall~~  
9 ~~approve or disapprove the reasonableness of the cost estimate.~~

10 ~~(2) If the claim is for reimbursement of costs incurred pursuant~~  
11 ~~to a performance-based contract, Article 6.5 (commencing with~~  
12 ~~Section 25299.64) shall apply to that claim.~~

13 ~~(d) Except as provided in subdivision (j), a claim specified in~~  
14 ~~subdivision (a) may be paid if the board makes all of the following~~  
15 ~~findings:~~

16 ~~(1) There has been an unauthorized release of petroleum into~~  
17 ~~the environment from an underground storage tank.~~

18 ~~(2) The claimant is required to undertake or contract for~~  
19 ~~corrective action pursuant to Section 25296.10, or, as of January~~  
20 ~~1, 1988, the claimant has initiated corrective action in accordance~~  
21 ~~with Division 7 (commencing with Section 13000) of the Water~~  
22 ~~Code.~~

23 ~~(3) Prior to the date when the claimant submits a completed~~  
24 ~~application to the fund, the claimant is in compliance with the~~  
25 ~~applicable provisions of Section 25299.31 and the permit~~  
26 ~~requirements of Chapter 6.7 (commencing with Section 25280).~~

27 ~~(4) The board has approved either the costs incurred for the~~  
28 ~~corrective action pursuant to subdivision (b) or the estimated costs~~  
29 ~~for corrective action pursuant to subdivision (c).~~

30 ~~(5) Before the date when the claimant submits a completed~~  
31 ~~application to the fund, the claimant has paid all fees, interest, and~~  
32 ~~penalties imposed pursuant to Article 5 (commencing with Section~~  
33 ~~29299.40) and Part 26 (commencing with Section 50101) of~~  
34 ~~Division 2 of the Revenue and Taxation Code for the underground~~  
35 ~~storage tank that is the subject of the claim.~~

36 ~~(e) The board shall provide the claimant, whose cost estimate~~  
37 ~~has been approved, a letter of credit authorizing payment of the~~  
38 ~~costs from the fund.~~

1     ~~(f) The claimant may submit a request for partial payment to~~  
2 ~~cover the costs of corrective action performed in stages, as~~  
3 ~~approved by the board.~~

4     ~~(g) (1) Any claimant who submits a claim for payment to the~~  
5 ~~board shall submit multiple bids for prospective costs as prescribed~~  
6 ~~in regulations adopted by the board pursuant to Section 25299.77.~~

7     ~~(2) Any claimant who submits a claim to the board for the~~  
8 ~~payment of professional engineering and geologic work shall~~  
9 ~~submit multiple proposals and fee estimates, as required by the~~  
10 ~~regulations adopted by the board pursuant to Section 25299.77.~~  
11 ~~The claimant's selection of the provider of these services is not~~  
12 ~~required to be based on the lowest estimated fee, if the fee estimate~~  
13 ~~conforms with the range of acceptable costs established by the~~  
14 ~~board.~~

15     ~~(3) Any claimant who submits a claim for payment to the board~~  
16 ~~for remediation construction contracting work shall submit multiple~~  
17 ~~bids, as required in the regulations adopted by the board pursuant~~  
18 ~~to Section 25299.77.~~

19     ~~(4) Paragraphs (1), (2), and (3) do not apply to a tank owned or~~  
20 ~~operated by a public agency if the prospective costs are for private~~  
21 ~~professional services within the meaning of Chapter 10~~  
22 ~~(commencing with Section 4525) of Division 5 of Title 1 of the~~  
23 ~~Government Code and those services are procured in accordance~~  
24 ~~with the requirements of that chapter.~~

25     ~~(h) The board shall provide, upon the request of a claimant,~~  
26 ~~assistance to the claimant in the selection of contractors retained~~  
27 ~~by the claimant to conduct reimbursable work related to corrective~~  
28 ~~actions. The board shall develop a summary of expected costs for~~  
29 ~~common remedial actions. This summary of expected costs may~~  
30 ~~be used by claimants as a guide in the selection and supervision~~  
31 ~~of consultants and contractors.~~

32     ~~(i) The board shall pay, within 60 days from the date of receipt~~  
33 ~~of an invoice of expenditures, all costs specified in the work plan~~  
34 ~~developed pursuant to Section 25296.10, and all costs that are~~  
35 ~~otherwise necessary to comply with an order issued by a local,~~  
36 ~~state, or federal agency.~~

37     ~~(j) (1) The board shall pay a claim of not more than three~~  
38 ~~thousand dollars (\$3,000) per occurrence for regulatory technical~~  
39 ~~assistance to an owner or operator who is otherwise eligible for~~  
40 ~~reimbursement under this chapter.~~

1     ~~(2) For the purposes of this subdivision, regulatory technical~~  
2 ~~assistance is limited to assistance from a person, other than the~~  
3 ~~claimant, in the preparation and submission of a claim to the fund.~~  
4 ~~Regulatory technical assistance does not include assistance in~~  
5 ~~connection with proceedings under Section 25296.40, 25299.39.2,~~  
6 ~~or 25299.56 or any action in court.~~

7     ~~(k) (1) Notwithstanding any other provision of this section, the~~  
8 ~~board shall pay a claim for the costs of corrective action to a person~~  
9 ~~who owns property on which is located a release from a petroleum~~  
10 ~~underground storage tank that has been the subject of a completed~~  
11 ~~corrective action and for which additional corrective action is~~  
12 ~~required because of additionally discovered contamination from~~  
13 ~~the previous release, only if the person who carried out the earlier~~  
14 ~~and completed corrective action was eligible for, and applied for,~~  
15 ~~reimbursement pursuant to subdivision (b), and only to the extent~~  
16 ~~that the amount of reimbursement for the earlier corrective action~~  
17 ~~did not exceed the amount of reimbursement authorized by~~  
18 ~~subdivision (a). Reimbursement to a claimant on a reopened site~~  
19 ~~shall occur when funds are available, and reimbursement~~  
20 ~~commitment shall be made ahead of any new letters of commitment~~  
21 ~~to be issued, as of the date of the reopening of the claim, if funding~~  
22 ~~has occurred on the original claim, in which case funding shall~~  
23 ~~occur at the time it would have occurred under the original claim.~~

24     ~~(2) For purposes of this subdivision, a corrective action is~~  
25 ~~completed when the local agency or regional board with~~  
26 ~~jurisdiction over the site or the board issues a closure letter pursuant~~  
27 ~~to subdivision (g) of Section 25296.10.~~

28     ~~SEC. 4. The changes made by this act to Sections 25299.54~~  
29 ~~and 25299.57 of the Health and Safety Code shall apply~~  
30 ~~retroactively to any application for a claim to the Underground~~  
31 ~~Storage Tank Cleanup Fund that was pending before, or on appeal~~  
32 ~~from, the State Water Resources Control Board on and after~~  
33 ~~January 1, 2007.~~